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In re Application of	:	
BLACHER, Guillaume	:	
Application No.: 10/537,650	:	DECISION ON
PCT No.: PCT/IB03/05680	:	
Int. Filing Date: 05 December 2003	:	PETITION UNDER
Priority Date: 06 December 2002	:	
Attorney Docket No.: SDS-0119	:	37 CFR 1.47(b)
For: FINANCIAL PRODUCT PRICING	:	
SYSTEM	:	

This is a decision on applicant's "Renewed Petition In Support of Filing On Behalf of Non-Signing Inventors (37 CFR §1.47(b))," filed in the United States Patent and Trademark Office (USPTO) on 04 December 2006.

BACKGROUND

On 02 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicants' petition without prejudice.

On 04 December 2006, applicants filed this renewed petition. 02 December 2006 was a Saturday.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), (4) and (6) have been met. (1) The balance of the \$200 petition fee will be charged to the deposit account no. 23-3050, as authorized. (3) Applicant states the last known mailing address of Guillaume Blacher as 28 Gaskarth Road; Londres SW12 9NL; United Kingdom. (4) The declaration complies with 37 CFR 1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has been satisfied. Valerie A. Chicchi indicates that she sealed the envelope sent to the inventor and that it included a copy of the application with the declaration. Further, applicants have supplied a copy of the UPS tracking information for the package indicating that it was signed for by "Blachet," not "Blacher". Notwithstanding the discrepancy in the spelling of the inventor's name, this is

sufficient evidence of presentation of a complete copy of the application papers to the non-signing inventor.

Item (5) has not been met. Applicant has not provided sufficient evidence of proprietary interest in the application. Previously, applicant provided an employment agreement signed by Guillaume Blacher as the basis of Reech Capital PLC's proprietary interest in this application, but did not a statement of facts by a person having firsthand knowledge that the invention was made during the employment and within the scope of the employment agreement. MPEP409.03(f). Applicant has still not done so. The declaration of Howard Wallis does not demonstrate firsthand knowledge that Mr. Blacher invented the invention described in the above captioned application during his employment and within the scope of his employment.

Further, applicant has now provided a "Deed of Warranty and Indemnity" purported to show that Mr. Blacher acknowledged Reech Capital PLC's ownership of this application. First, this document details a process. It is not an assignment. It is contemplating future action and lists "completion" as a defined term. The agreement indicates that it is still conditional.

Second, this document does not list this application nor does it list this application's priority application. It lists "ADeP" in "Schedule 6 - Part 3." The declaration of Howard Wallis indicates that he was informed that this application was referred to within Reech as "ADeP". Mr. Wallis' declaration does not demonstrate firsthand knowledge.

Third, the international application was not filed until seven months after this agreement was written.

Fourth, the agreement only purports to sell the intellectual property rights owned by a "Group Member," which is defined as "a company which is a member of the Group." The international application lists Reech Capital PLC as the applicant for all states other than the United States, but lists Mr. Blacher as applicant for the United States. The Office is only concerned with the intellectual property rights for the United States. Mr. Blacher signed this document listing "AdeP ... applied for ,on behalf of Reech. It does not indicate that Reech owned the intellectual property rights for the United States for this application. Additionally, this deed was executed in the United Kingdom, under United Kingdom law. The legal meaning and value of the document and other matters that establish the ownership of this application should be set out in a legal memorandum as discussed in MPEP 409.03(f).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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